

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 20. The Retailers' Occupation Tax Act is amended by
5 changing Section 13 as follows:

6 (35 ILCS 120/13) (from Ch. 120, par. 452)

7 Sec. 13. When the amount due is under \$300, any person
8 engaged in the business of selling tangible personal property
9 at retail in this State who fails to file a return, or who
10 files a fraudulent return, or any officer, employee or agent of
11 a corporation, member, employee or agent of a partnership, or
12 manager, member, agent, or employee of a limited liability
13 company engaged in the business of selling tangible personal
14 property at retail in this State who, as such officer,
15 employee, agent, manager, or member is under a duty to file a
16 return, or any officer, agent or employee of a corporation,
17 member, agent, or employee of a partnership, or manager,
18 member, agent, or employee of a limited liability company
19 engaged in the business of selling tangible personal property
20 at retail in this State who files or causes to be filed or
21 signs or causes to be signed a fraudulent return filed on
22 behalf of such corporation or limited liability company, or any
23 accountant or other agent who knowingly enters false

1 information on the return of any taxpayer under this Act, is
2 guilty of a Class 4 felony.

3 When the amount due is at least \$300 but less than \$1,000,
4 any person engaged in the business of selling tangible personal
5 property at retail in this State who fails to file a return, or
6 who files a fraudulent return, or any officer, employee or
7 agent of a corporation, member, employee or agent of a
8 partnership, or manager, member, agent, or employee of a
9 limited liability company engaged in the business of selling
10 tangible personal property at retail in this State who, as such
11 officer, employee, agent, manager, or member is under a duty to
12 file a return and who fails to file such return or any officer,
13 agent, or employee of a corporation, member, agent or employee
14 of a partnership, or manager, member, agent, or employee of a
15 limited liability company engaged in the business of selling
16 tangible personal property at retail in this State who files or
17 causes to be filed or signs or causes to be signed a fraudulent
18 return filed on behalf of such corporation or limited liability
19 company, or any accountant or other agent who knowingly enters
20 false information on the return of any taxpayer under this Act
21 is guilty of a Class 3 felony.

22 When the amount due is at least \$1,000, any person engaged
23 in the business of selling tangible personal property at retail
24 in this State who fails to file a return, or who files a
25 fraudulent return, or any officer, employee or agent of a
26 corporation, member, employee or agent of a partnership, or

1 manager, member, agent, or employee of a limited liability
2 company engaged in the business of selling tangible personal
3 property at retail in this State who, as such officer,
4 employee, agent, manager, or member is under a duty to file a
5 return and who fails to file such return or any officer, agent,
6 or employee of a corporation, member, agent or employee of a
7 partnership, or manager, member, agent, or employee of a
8 limited liability company engaged in the business of selling
9 tangible personal property at retail in this State who files or
10 causes to be filed or signs or causes to be signed a fraudulent
11 return filed on behalf of such corporation or limited liability
12 company, or any accountant or other agent who knowingly enters
13 false information on the return of any taxpayer under this Act
14 is guilty of a Class 2 felony.

15 Any person who or any officer or director of any
16 corporation, partner or member of any partnership, or manager
17 or member of a limited liability company that: (a) violates
18 Section 2a of this Act or (b) fails to keep books and records,
19 or fails to produce books and records as required by Section 7
20 or (c) willfully violates a rule or regulation of the
21 Department for the administration and enforcement of this Act
22 is guilty of a Class A misdemeanor. Any person, manager or
23 member of a limited liability company, or officer or director
24 of any corporation who engages in the business of selling
25 tangible personal property at retail after the certificate of
26 registration of that person, corporation, limited liability

1 company, or partnership has been revoked is guilty of a Class A
2 misdemeanor. Each day such person, corporation, or partnership
3 is engaged in business without a certificate of registration or
4 after the certificate of registration of that person,
5 corporation, or partnership has been revoked constitutes a
6 separate offense.

7 Any purchaser who obtains a registration number or resale
8 number from the Department through misrepresentation, or who
9 represents to a seller that such purchaser has a registration
10 number or a resale number from the Department when he knows
11 that he does not, or who uses his registration number or resale
12 number to make a seller believe that he is buying tangible
13 personal property for resale when such purchaser in fact knows
14 that this is not the case is guilty of a Class 4 felony.

15 Any distributor, supplier or other reseller of motor fuel
16 registered pursuant to Section 2a or 2c of this Act who fails
17 to collect the prepaid tax on invoiced gallons of motor fuel
18 sold or who fails to deliver a statement of tax paid to the
19 purchaser or to the Department as required by Sections 2d and
20 2e of this Act, respectively, shall be guilty of a Class A
21 misdemeanor if the amount due is under \$300, and a Class 4
22 felony if the amount due is \$300 or more.

23 When the amount due is under \$300, any person who accepts
24 money that is due to the Department under this Act from a
25 taxpayer for the purpose of acting as the taxpayer's agent to
26 make the payment to the Department, but who fails to remit such

1 payment to the Department when due is guilty of a Class 4
2 felony.

3 Any seller who collects or attempts to collect an amount
4 (however designated) which purports to reimburse such seller
5 for retailers' occupation tax liability measured by receipts
6 which such seller knows are not subject to retailers'
7 occupation tax, or any seller who knowingly over-collects or
8 attempts to over-collect an amount purporting to reimburse such
9 seller for retailers' occupation tax liability in a transaction
10 which is subject to the tax that is imposed by this Act, shall
11 be guilty of a Class 4 felony for each such offense. This
12 paragraph does not apply to an amount collected by the seller
13 as reimbursement for the seller's retailers' occupation tax
14 liability on receipts which are subject to tax under this Act
15 as long as such collection is made in compliance with the tax
16 collection brackets prescribed by the Department in its Rules
17 and Regulations.

18 ~~When the amount due is \$300 or more, any person engaged in~~
19 ~~the business of selling tangible personal property at retail in~~
20 ~~this State who fails to file a return, or who files a~~
21 ~~fraudulent return, or any officer, employee or agent of a~~
22 ~~corporation, member, employee or agent of a partnership, or~~
23 ~~manager, member, agent, or employee of a limited liability~~
24 ~~company engaged in the business of selling tangible personal~~
25 ~~property at retail in this State who, as such officer,~~
26 ~~employee, agent, manager, or member is under a duty to file a~~

1 ~~return and who fails to file such return or any officer, agent,~~
2 ~~or employee of a corporation, member, agent or employee of a~~
3 ~~partnership, or manager, member, agent, or employee of a~~
4 ~~limited liability company engaged in the business of selling~~
5 ~~tangible personal property at retail in this State who files or~~
6 ~~causes to be filed or signs or causes to be signed a fraudulent~~
7 ~~return filed on behalf of such corporation or limited liability~~
8 ~~company, or any accountant or other agent who knowingly enters~~
9 ~~false information on the return of any taxpayer under this Act~~
10 ~~is guilty of a Class 3 felony.~~

11 When the amount due is \$300 or more, any person engaged in
12 the business of selling tangible personal property at retail in
13 this State who accepts money that is due to the Department
14 under this Act from a taxpayer for the purpose of acting as the
15 taxpayer's agent to make payment to the Department but fails to
16 remit such payment to the Department when due, is guilty of a
17 Class 3 felony.

18 Any person whose principal place of business is in this
19 State and who is charged with a violation under this Section
20 shall be tried in the county where his principal place of
21 business is located unless he asserts a right to be tried in
22 another venue.

23 Any taxpayer or agent of a taxpayer who with the intent to
24 defraud purports to make a payment due to the Department by
25 issuing or delivering a check or other order upon a real or
26 fictitious depository for the payment of money, knowing that it

1 will not be paid by the depository, shall be guilty of a
2 deceptive practice in violation of Section 17-1 of the Criminal
3 Code of 1961, as amended.

4 A person commits the offense of tax evasion under this Act
5 when he knowingly attempts in any manner to evade or defeat the
6 tax imposed on him or on any other person, or the payment
7 thereof, and he commits an affirmative act in furtherance of
8 the evasion. Two or more acts of tax evasion may be charged as
9 a single count in any indictment, information, or complaint and
10 the amount of tax deficiency may be aggregated for purposes of
11 determining the amount of tax which is attempted to be or is
12 evaded and the period between the first and last acts may be
13 alleged as the date of the offense.

14 (1) When the amount of tax, the assessment or payment
15 of which is attempted to be or is evaded is less than \$500
16 a person is guilty of a Class 4 felony.

17 (2) When the amount of tax, the assessment or payment
18 of which is attempted to be or is evaded is \$500 or more
19 but less than \$10,000, a person is guilty of a Class 3
20 felony.

21 (3) When the amount of tax, the assessment or payment
22 of which is attempted to be or is evaded is \$10,000 or more
23 but less than \$100,000, a person is guilty of a Class 2
24 felony.

25 (4) When the amount of tax, the assessment or payment
26 of which is attempted to be or is evaded \$100,000 or more,

1 a person is guilty of a non-probationable Class 1 felony.

2 A prosecution for any act in violation of this Section may
3 be commenced at any time within 5 ~~3~~ years of the commission of
4 that act.

5 (Source: P.A. 87-879; 88-480.)